

§ 143-126.1. Lien on property for unpaid balance due institution.

(a) There is hereby created a general lien on both the real and personal property of any person admitted who is receiving or who has received care in any of the institutions operated by the Department of Health and Human Services to the extent of the total amount of the unpaid balance shown on the verified statement of account for charges from and after July 1, 1967.

(b) Such general lien for the unpaid balance for care at the institutions shall apply to the property, both real and personal, of the person admitted whether held by him or his trustee or guardian.

(c) At the time deemed suitable in the discretion of the Department, there may be filed a verified statement of account containing the following:

- (1) The name of the person admitted;
- (2) The inclusive dates of the provision of care and a statement that care is continuing if applicable;
- (3) The name of the institution providing care; and
- (4) The amount of the unpaid balance.

The statement may be filed in the office of the clerk of superior court in the county of residence of the person admitted and in each county or counties where real property in which the patient owns an interest is found. The statement shall be docketed and indexed by the clerk.

(d) From the time of docketing, the statement shall be and constitute due notice of a lien against the real property then owned or thereafter acquired by the patient and lying in such county to the extent of the total amount of the unpaid balance for the person admitted's care as evidenced by the verified statement of account for charges from and after July 1, 1967. Payments made by a fiduciary, including those made by a clerk of superior court, in full or partial satisfaction of such lien, shall constitute a valid expenditure as provided in G.S. 143-119.

(e) The lien thus established shall take priority over all other liens subsequently acquired and shall continue from the date of filing until satisfied. No action to enforce such lien may be brought more than three years from the last date of filing of such lien nor more than three years after the death of any person admitted. The failure to bring such action or the failure of the Department to file said statement shall not be a complete bar against recovery but shall only extinguish the lien and priority established by it.

(f) Upon receipt of the full unpaid balance by the institution or Department or upon agreement of compromise of such unpaid balance, the Department shall notify the clerks of superior court in the counties where the lien has been docketed that the unpaid balance has been paid, and the clerks shall cancel the lien of record.

(g) Notwithstanding the foregoing provisions, no such lien shall be enforceable against any funds paid by the State to a person admitted after judgment or settlement of a claim for damages arising out of the negligent injury of such person at any of the institutions during the life of person admitted. Upon the death of the person admitted, any remaining proceeds of a judgment or settlement under this subsection in the hands of the deceased shall become a general asset of the estate and subject to any lien of the State. (1967, c. 959; 1973, c. 476, s. 133; 1979, c. 978, s. 1; 1985, c. 508, s. 11; 1997-443, s. 11A.118(a).)